

**EIGHTY-FOURTH GENERAL ASSEMBLY
2011 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

FEBRUARY 25, 2011

HOUSE FILE 132

H-1100

1 Amend House File 132 as follows:
2 1. By striking everything after the enacting clause
3 and inserting:
4 <Section 1. Section 403.19, Code 2011, is amended
5 by adding the following new subsection:
6 NEW SUBSECTION. 4A. An ordinance adopted under
7 this section providing for a division of revenue shall
8 be filed in the office of the county auditor of each
9 county where the property that is subject to the
10 ordinance is located.>
11 2. Title page, by striking lines 1 through 3 and
12 inserting <An Act relating to the filing requirements
13 for certain ordinances relating to a division of
14 revenue.>

COMMITTEE ON LOCAL GOVERNMENT

WAGNER of Linn, Chairperson

H-1100 FILED FEBRUARY 24, 2011

Fiscal Note

Fiscal Services Division



HF 278 – Eluding Law Enforcement in Motor Vehicle (LSB 2201HV)
Analyst: Beth Lenstra (Phone: 515-281-6301) (beth.lenstra@legis.state.ia.us)
Fiscal Note Version – New
Requested by Representative Kurt Swaim

Description

House File 278 broadens the definition of eluding or attempting to elude a marked law enforcement vehicle. In order to be convicted under this Bill the driver must also have committed another traffic offense.

Background

Correctional and Fiscal Information

- The table below shows the number of misdemeanor convictions for the last two fiscal years per the Justice Data Warehouse.

Misdemeanor Convictions for Eluding		
	FY 2009	FY 2010
Serious Misdemeanor	168	167
Aggravated Misdemeanor	147	142
Total	315	309

- Approximately 50.0% of offenders currently convicted of a serious misdemeanor could be convicted of an aggravated misdemeanor under the provisions of this Bill.
- According to the Iowa Corrections Offender Network (ICON), approximately 62.2% of offenders under correctional supervision for serious misdemeanor eluding also had convictions for more serious offenses.
- This Bill's provisions will apply to 37.8% of offenders currently being convicted of a serious misdemeanor.
- Based on information from the Iowa Court Information System (ICIS) and ICON data, for those aggravated misdemeanants with no concurrent or consecutive felony, the probation rate is 72.5%, residential placement to an Operating While Intoxicated (OWI) facility is 5.0%, and the prison incarceration rate is 22.5%.
- According to ICIS data, the jail incarceration rate for aggravated misdemeanants is 49.3% and the average jail term imposed is 35 days. The jail incarceration rate for serious misdemeanants is 58.4% and the average jail term imposed is 56 days. The marginal cost per day for county jails is \$15.00.
- An offender convicted of a serious misdemeanor is required to pay a fine of at least \$315 but no more than \$1,875. The judge may impose imprisonment not to exceed one year. Sentences of one year or less are served in county jails.

- An offender convicted of an aggravated misdemeanor is required to pay a fine of at least \$625 but no more than \$6,250. The judge may impose imprisonment not to exceed two years. Sentences greater than one year are served in the State prisons.
- The average length of stay in prison for aggravated misdemeanants is 7.9 months. The marginal cost per day is \$16.75.
- The average length of stay in a residential facility is 4.1 months. The marginal cost per day is \$11.02. The current waiting list for placement in a Community-Based Corrections (CBC) residential facility is 788 offenders. This number includes offenders waiting in State prison, parole, probation, county jails, or the U.S. prison system.
- A serious misdemeanor sentenced to probation serves 10.8 months on average while an aggravated misdemeanor serves 19.6 months on average. The difference in the average length of stay on probation for an aggravated misdemeanor compared to a serious misdemeanor is 8.8 months. The average length of stay on parole upon release from prison for an aggravated misdemeanor is 5.6 months. The average daily cost for parole or probation is \$3.24.
- The difference in cost per case for indigent defense for an aggravated misdemeanor compared to a serious misdemeanor is \$600.
- There is minimal difference in costs to the Judicial Branch for an aggravated misdemeanor compared to a serious misdemeanor.

Minority Data Information: Approximately 40.0% of offenders convicted of serious misdemeanor eluding are African Americans.

Assumptions

Correctional and Fiscal Information

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, and other correctional policies and practices will not change over the projection period.
- The law will become effective July 1, 2011. A lag effect of six months is assumed from the effective date to the date of first entry of affected offenders into the correctional system.
- Broadening the definition to remove the speeding requirement and adding an endangerment component may increase the number of aggravated misdemeanor convictions and decrease the number of serious misdemeanor convictions.
- Eluding may not be the most serious conviction for offenders convicted of this offense. They may receive multiple convictions for their actions where a felony may be the lead offense. To the extent that a percentage of offenders have a lead offense of a felony, this Bill will have a limited correctional impact on offenders currently convicted of the aggravated misdemeanor conviction.
- Half of the offenders convicted will be indigent.

Minority Data Information: Approximately 14.0% of Iowa's population has at least one disability. The number of disabled offenders convicted under this Bill may be 14.0%.

Summary of Impacts

Correctional Impact

There will be 84 offenders annually convicted of an aggravated misdemeanor under the Bill that are convicted of a serious misdemeanor under current law. Of these, 52 will have more serious offenses and not be impacted by the enhanced penalty for eluding imposed by this Bill. Of the remaining 32 offenders, 14 offenders will be sentenced to correctional supervision as follows: 10 to probation, 1 to OWI residential facility, and 3 to prison. The 10 offenders sentenced to probation would have received probation under current law. However, they will remain on probation for a longer period (8.8 months) than current law.

There will be 18 offenders not sentenced to prison, residential facilities, or probation. Of these, 16 offenders convicted under this Bill will receive a jail sentence. Upon release from jail they may also receive a fine or community service, or both. There will be two offenders that may receive a fine or community service, or both.

There will be two offenders admitted to prison in FY 2012, and three annually thereafter. The prison population will increase by two offenders in FY 2012, and three annually thereafter for the next five years. There will not be a significant increase in the prison population because the average length of stay is short (7.9 months).

On an annual basis, there will be three fewer admissions to county jails. Under current law, 19 serious misdemeanants are sentenced to county jails for an average length of stay of 56 days. Under the Bill, 16 of the 19 offenders will be aggravated misdemeanants sentenced to county jails for an average length of stay of 35 days. There will be a net reduction of 504 fewer days served in jail. $[(19 \text{ offenders} \times 56 \text{ days}) - (16 \text{ offenders} \times 35 \text{ days})]$.

On an annual basis, there will be one additional admission to CBC residential facilities. The offender will be released to probation upon successful completion of the residential program. Note there are currently offenders waiting to enter residential facilities.

There will be one additional admission to probation supervision annually. However, this offender will remain on correctional supervision for a longer period (8.8 months) compared to current law. There will be a slight increase in the probation population in future years because of the increased length of stay in the system.

Minority Impact

It is anticipated this Bill will have a disproportionate impact on African Americans because approximately 40.0% of offenders convicted of serious misdemeanor eluding are African Americans. To the extent the Bill shifts serious misdemeanor convictions to aggravated misdemeanor convictions, there will be an increase in the length of stay of minority offenders in the corrections system.

Fiscal Impact

The fiscal impact is estimated to be an increased cost to the State General Fund of \$11,100 in FY 2012 and \$30,100 in FY 2013. The table below shows the impact by areas within the State criminal justice system.

State General Fund Impact		
	FY 2012	FY 2013
Indigent Defense	\$ 4,800	\$ 9,600
State Prisons	6,000	18,000
CBC	300	2,500
	<u>\$ 11,100</u>	<u>\$ 30,100</u>

There will be a savings to county jail operations of approximately \$7,600 annually.

Sources

Department of Corrections
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Judicial Branch
Office of the State Public Defender

/s/ Holly M. Lyons

February 23, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56](#), Code of Iowa. Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.

Fiscal Note

Fiscal Services Division



HF 302 – Bingo Sales Tax Exemption (LSB 2111HH)

Analyst: Shawn Snyder (Phone: 515-281-7799) (shawn.snyder@legis.state.ia.us)

Fiscal Note Version – New

Requested by Representative Steven F. Lukan

Description

House File 302 specifies that bingo games conducted by qualified organizations for certain charitable purposes are exempt from the sales and use tax imposed on bingo games.

Background

The Department of Inspections and Appeals (DIA) collects data from organizations including the amount of bingo gaming receipts. As of February 15, 2011, 51.0% of the annual gambling reports had been submitted to the DIA. Based on those reports, \$11.7 million of bingo gaming receipts had been reported. The DIA has indicated that the anticipated final amount of bingo gaming receipts reported for FY 2010 will total a minimum of \$14.0 million.

Assumptions

- Bingo gaming receipts will remain constant at \$14.0 million annually in future years.
- The statewide local option sales tax (LOST) rate will remain at 0.87% in future years.
- State sales/use tax will be deposited as follows: five-sixths in the General Fund and one-sixth in the Secure an Advanced Vision for Education (SAVE) Fund.

Fiscal Impact

The estimated fiscal impact of House File 302 is:

- A reduction in General Fund tax receipts totaling \$700,000 in FY 2012 and future fiscal years.
- A reduction in tax receipts for the SAVE Fund totaling \$140,000 in FY 2012 and future fiscal years.
- A statewide reduction in LOST totaling \$122,000 in FY 2012 and future fiscal years.

Sources

Department of Inspections and Appeals
LSA calculations and analysis

/s/ Holly M. Lyons

February 23, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to Code [Section 2.56](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.



HF 299 – Public Utility Property, Trespassing (LSB 2001HV)

Analysts: Joseph Brandstatter (Phone: 515-281-8223) (joseph.brandstatter@legis.state.ia.us)

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Fiscal Note Version – New

Requested by Representative Kurt Swaim

Description

House File 299 provides an option for local ordinances regarding copper theft. This Bill also amends the definition of trespassing to include public utility property and provides for a Class D felony for that specific crime.

Background

Correctional and Fiscal Information

- The correctional impact permitting local copper theft ordinances cannot be determined due to a lack of data. It is not known how many local governments will implement such an ordinance.
- It is unclear what the criminal penalty may be under these ordinances. The penalty may be more or less severe than a scheduled violation.
- Under House File 299, salvage dealers are required to keep certain records. Failure to maintain those records may result in suspension or revocation of a license or permit. The Bill provides for a judicial hearing related to the suspension, revocation, or the denial of a permit.
- The average cost for a judicial proceeding is \$27 depending on whether a magistrate or district associate judge hears the case. It is not known how many cases regarding local ordinances will be heard.
- In FY 2010, there were 2,147 offenders convicted of simple misdemeanor trespass and 100 convicted of serious misdemeanor trespass. Under House File 299, a percentage of these convictions will become Class D felonies.
- Offenders convicted of a simple misdemeanor are not supervised in the correction system. They usually receive a fine, community service, or a combination of the two.
- Offenders convicted of a serious misdemeanor are required to pay a fine of at least \$315 but no more than \$1,875. The judge may impose imprisonment not to exceed one year. Sentences of one year or less are served in county jails.
- Offenders convicted of a Class D felony are required to pay a fine of at least \$750 but no more than \$7,500. The judge may impose imprisonment not to exceed five years. These sentences are served in State prisons.
- The average length of stay in prison for a serious misdemeanor is 6.4 months. The marginal cost per day is \$16.75. The average length of stay on parole for a serious misdemeanor is 5.3 months.
- The average length of stay on probation for a serious misdemeanor is 10.8 months. The average daily cost for parole or probation is \$3.24.
- The average length of stay in prison for a Class D felony is 14.6 months. The incarceration rate for a Class D felony is 28.5% for property offenses.
- The average length of stay on parole upon release from prison is 12.8 months.
- The average length of stay on probation for a Class D felony is 32.3 months.

Minority Data Information: Based on FY 2010 data where race is known, approximately 67.8% of convicted offenders were Caucasian, 21.7% were African-American, and 10.7% were other minorities.

Assumptions

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, and other correctional policies and practices will not change over the projection period.
- The law will become effective July 1, 2011. A lag effect of six months is assumed from the effective date to the date of first entry of the affected offenders into the correctional system.
- The fiscal impact of local copper theft ordinances cannot be estimated, but is assumed to be minimal.
- Broadening the definition of trespass and enhancing the penalty for that trespass may increase the number of Class D felony convictions and decrease the number simple and serious misdemeanor convictions.

Minority Data Information: Approximately 14.0% of Iowa's population has at least one disability. The number of disabled offenders convicted under this Bill may be 14.0%.

Summary of Impacts

Correctional Impact

It is not possible to predict the number of Class D felony convictions that will occur under the provisions of the Bill. However, to the extent that convictions do occur there will be a correctional impact due to the significant increase in the average length of stay in the corrections system.

Minority Impact

To the extent the Bill shifts simple and serious misdemeanor convictions to Class D felony convictions, there will be an increase in the length of stay of minority offenders in the corrections system.

Fiscal Impact

The average State cost for one simple misdemeanor conviction ranges from \$27 (court costs) to \$327 (court costs and indigent defense).

The average State cost for one serious misdemeanor conviction ranges from \$201 (court costs) to \$5,300 (court costs including a jury, indigent defense, prison, and parole). The maximum costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.

The average State cost for one Class D felony conviction ranges from \$4,750 (court costs, indigent defense, and probation) to \$12,300 (court costs with a jury, indigent defense, prison, and parole). Costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.

The number convictions cannot be estimated under the Bill; therefore the fiscal impact is unknown. To the extent convictions do occur, State General Fund costs will increase.

Sources

Department of Corrections
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Judicial Branch
Office of the State Public Defender
Iowa Utilities Board

/s/ Holly M. Lyons

February 23, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56, Code of Iowa](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.
